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DENNIS R. STARK, Appellant)	
)	
and)	Docket No. 05-1826
)	Issued: January 10, 2006
U.S. POSTAL SERVICE, POST OFFICE,)	
Anderson, CA, Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

On November 10, 2001 appellant, then a 51-year-old building maintenance custodian, filed an occupational disease claim alleging that he sustained plantar fasciitis causally related to factors of his federal employment. The Office accepted his claim for bilateral plantar fasciitis.

Appellant filed a claim for a schedule award on October 16, 2003.¹ By letter dated November 4, 2003, the Office requested that his attending physician evaluate his degree of permanent impairment in accordance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001).

In an impairment evaluation dated November 26, 2003, Dr. Ajit S. Garcha, a Board-certified physiatrist, discussed appellant's complaints of pain in his feet which was "intermittent, being aggravated by walking and relieved by pain pills." He diagnosed plantar fasciitis of the left foot. On an accompanying impairment evaluation form, Dr. Garcha indicated that appellant had foot pain which was uncomfortable and localized to his plantar fascia. He opined that it did not interfere with the activities of daily living. Dr. Garcha measured appellant's range of motion for the right great toe as 30 degrees at the interphalangeal (IP) joint, 50 degrees of dorsiflexion at the metacarpal interphalangeal (MCP) joint and 30 degrees of plantar flexion at the MCP joint. He measured the range of motion for the left great toe as 30 degrees at the IP joint, 50 degrees of dorsiflexion at the MCP joint and 25 degrees of plantar flexion at the MCP joint. For the remaining toes bilaterally, he listed findings of 40 degrees of dorsiflexion at the metatarsophalangeal (MPJ) joint and 30 degrees of plantar flexion at the MPJ joint. Dr. Garcha found no ankylosis, atrophy or weakness and listed the date of maximum medical improvement as March 2002.

On February 10, 2004 an Office medical adviser reviewed Dr. Garcha's November 26, 2003 report and concluded that appellant had a one percent permanent impairment of each lower extremity or a two percent bilateral impairment of the feet due to pain in the medial plantar nerve.² He noted that Dr. Garcha found no loss of range of motion, atrophy or sensory loss. The Office medical adviser opined that the date of maximum medical improvement was March 31, 2002.

In a report dated September 23, 2004, Dr. John C. Lange, a Board-certified orthopedic surgeon, found bilateral "exquisite, well-localized tenderness to palpation over the plantar surface of the heel medially." He diagnosed bilateral plantar fasciitis and referred appellant to Dr. Allen C. Krohn, who is Board-certified in emergency medicine and specializes in occupational medicine, for a permanent and stationary rating.

By letter dated March 7, 2005, the Office requested that appellant submit an impairment evaluation in accordance with the A.M.A., *Guides*.

In a report dated October 21, 2004, Dr. Krohn noted that appellant's gait was "halted, deliberate and atelic, but not otherwise abnormal" and that he had full range of motion of the ankles, feet and toes. He diagnosed bilateral plantar fasciitis and noted that appellant experienced pain that was "minimal to slight progressing to moderate with prolonged walking."

¹ The Office also accepted that appellant sustained bilateral chondromalacia of the patella and a right torn medial meniscus under file number 132075943.

² A.M.A., *Guides* 482, 552, Tables 16-10, 17-37.

An Office medical adviser reviewed Dr. Krohn's October 21, 2004 report on April 10, 2005. He noted that appellant's subjective complaints of pain increased from minimal to moderate with extended walking. The Office medical adviser stated:

"These subjective complaints would be graded a maximal Grade 3 as per the grading scheme (Table 16-10, [p]age 482 [of the A.M.A., *Guides*]). This would be pain and/or altered sensation that may interfere with activity or a 60 percent grade of a maximal 5 percent (branches of the medial plantar nerve), equivalent to a 3 percent impairment of each lower extremity or leg for pain factors. Records described no loss of range of motion of the ankles, feet, or toes, for a 0 percent impairment. Records describe no weakness or atrophy for a 0 percent impairment.

"Final award would be a three percent impairment of each lower extremity, which is equivalent to a four percent impairment of each foot. Date of maximum medical improvement would have been reached by September 23, 2004."

By decision dated June 23, 2005, the Office granted appellant a schedule award for a three percent impairment of each leg. The period of the award ran for 17.28 weeks, from April 27 to August 25, 2005.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act,³ and its implementing regulation,⁴ sets forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law for all claimants, the Office has adopted the A.M.A., *Guides* as the uniform standards applicable to all claimants.⁵ The Office procedures direct the use of the fifth edition of the A.M.A., *Guides*, issued in 2001, for all decisions made after February 1, 2001.⁶

ANALYSIS

The Office accepted that appellant sustained bilateral plantar fasciitis. In an impairment evaluation dated November 26, 2003, Dr. Garcha listed normal range of motion measurements⁷ and indicated that appellant had no ankylosis, atrophy or weakness. An Office medical adviser reviewed Dr. Garcha's report and opined that appellant had a one percent impairment of each

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404.

⁵ 20 C.F.R. § 10.404(a).

⁶ See FECA Bulletin No. 01-05 (issued January 20, 2001).

⁷ A.M.A., *Guides* 537, Table 17-14.

lower extremity based on his subjective complaints of pain. Appellant's attending physician, in a report dated September 23, 2004, found that he was permanent and stationary and referred him to Dr. Krohn for an impairment evaluation. In a report dated October 21, 2004, Dr. Krohn diagnosed bilateral plantar fasciitis and found that appellant's gait was "halted, deliberate and antalgic, but not otherwise abnormal." He indicated that appellant had full range of motion of his ankles, feet and toes but experienced moderate foot pain with extensive walking.

On April 10, 2005 an Office medical adviser reviewed Dr. Krohn's October 21, 2004 report and the other evidence of record. He properly applied the tables and pages of the A.M.A., *Guides* to Dr. Krohn's findings. The Office medical adviser graded appellant's complaints of pain as 60 percent for pain which interfered with activity according to Table 16-10 on page 482 of the A.M.A., *Guides*. He multiplied the 60 percent for graded pain by 5 percent, the maximum allowed for sensory impairments of the medial plantar nerve, to find that appellant had a 3 percent impairment of his bilateral lower extremities, or a 4 percent impairment of each foot.⁸ The Office medical adviser further properly found that appellant had no impairment due to loss of range of motion, weakness or atrophy.

The Board finds that the medical evidence establishes that appellant has a three percent bilateral lower extremity impairment or a four percent bilateral impairment of the feet. The Office properly granted appellant a schedule award based on his three percent bilateral lower extremity impairment.⁹ The Board has held that where the residuals of an injury to a scheduled member of the body extend into an adjoining area of a member also enumerated in the schedule, such as an injury of a finger into a hand, or a hand into the arm, or of a foot into the leg, the schedule award should be made on the basis of the percentage loss of use of the larger member.¹⁰

On appeal, appellant contends that his schedule award of a three percent impairment of both the right and left lower extremities is insufficient given the pain he experiences in his activities of daily living. However, the amount payable pursuant to a schedule award does not take into account the effect that the impairment has on employment opportunities, wage-earning capacity, sports, hobbies or other lifestyle activities.¹¹ The number of weeks of compensation for a schedule award is determined by the compensation schedule at 5 U.S.C. § 8107(c). For complete loss of use of the leg, the maximum number of weeks of compensation is 288 weeks. Since appellant's permanent impairment of each lower extremity is 3 percent, he is entitled to 3 percent of 288 weeks for each leg, or 17.28 weeks of compensation.

CONCLUSION

The Board finds that appellant has no more than a three percent impairment of both the right and left lower extremities for which he received a schedule award.

⁸ A.M.A., *Guides* 552, Table 17-37.

⁹ Appellant would receive only 16.4 weeks of compensation for a four percent bilateral impairment of the feet. See 5 U.S.C. § 8107.

¹⁰ *Charles B. Carey*, 49 ECAB 528 (1998).

¹¹ *Ruben Franco*, 54 ECAB ____ (Docket No. 02-2194, issued March 21, 2003).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 23, 2005 is affirmed.

Issued: January 10, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board